

4487. Adulteration of wheat germ. U. S. v. 60 Bags of Wheat Germ. Default decree of condemnation and destruction. (F. D. C. No. 8171. Sample No. 17945-F.)

This product was insect-infested.

On August 20, 1942, the United States attorney for the Southern District of New York filed a libel against 60 bags, each bag containing 100 pounds, of wheat germ at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about August 1, 1942, by Freshman Vitamin Co. from Wooster, Ohio; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. On September 10, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

4488. Adulteration of wheat germ. U. S. v. 161 Cases and 45 Cases of Wheat Germ. Default decree of condemnation and destruction. (F. D. C. No. 8399. Sample No. 16874-F.)

On September 24, 1942, the United States attorney for the Southern District of New York filed a libel against 161 cases, each containing 12 ½-pound cans, and 45 cases, each containing 12 1-pound cans, of wheat germ at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about August 28, 1942, by the Battle Creek Food Co. from Battle Creek, Mich.; and charging that it was adulterated and misbranded. The article was labeled in part: "Battle Creek Wheat Germ."

Examination of samples of the article showed that it contained less than 300 U.S.P. units of vitamin B₁ per ounce.

It was alleged to be misbranded (1) in that the following statement on the label, "One ounce (approx. ⅓ cup) of Battle Creek Wheat Germ supplies 500 U.S.P. units of vitamin B₁ (Thiamin), (1½ times the minimum daily requirement for an adult)," was false and misleading since it contained less than 500 U.S.P. units of vitamin B₁ per ounce; (2) in that the following statements, "Wheat Germ fills a much-needed place in the modern diet which is apt to be deficient in Thiamin (vitamin B₁) and Riboflavin (vitamin G). Vitamin B₁ tends to make steady nerves, improves appetite, aids digestion and combats constipation. Vitamin G promotes good nutrition; both vitamins help to build vital resistance. Battle Creek Wheat Germ presents a * * * economical source of these important vitamins. One ounce (approx. ⅓ cup) of Battle Creek Wheat Germ supplies 500 U.S.P. units of vitamin B₁ (Thiamin), (1½ times the minimum daily requirement for an adult)," were misleading since they represented and suggested that adequate amounts of vitamin B₁ and riboflavin are not supplied by the ordinary diet and that the use of the article would promote steady nerves, improve the appetite, aid digestion, combat constipation, promote good nutrition, and build vital resistance, whereas vitamin B₁ and riboflavin are present in a wide variety of ordinary foods and are present in many ordinary diets in adequate amounts, and the use of the article would not correct nor promote the conditions mentioned; and (3) in that it purported to be a food for special dietary use by reason of the presence of riboflavin and vitamin B₁ and other vitamins and its label failed to name, as required by regulations promulgated pursuant to law, the special dietary properties other than riboflavin and vitamin B₁, upon which such use was based, and its label failed to bear a statement of the quantity of such vitamins, other than riboflavin and vitamin B₁, supplied by the article, as required by such regulations.

The article was also charged to be adulterated and misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices.

On October 10, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MISCELLANEOUS FOOD PRODUCTS

4489. Misbranding of Mrs. Price's compound and Mrs. Price's special prepared boric acid. U. S. v. 89 Packages of Mrs. Price's Compound and 92 Packages of Mrs. Price's Special Prepared Boric Acid. Default decrees of condemnation and destruction. (F. D. C. Nos. 8411, 8974. Sample Nos. 22616-F, 24720-F.)

The former of these products consisted of about 95½ percent of boric acid and 4½ percent of sodium chloride; the latter was boric acid.

On September 23 and December 11, 1942, the United States attorneys for the District of Maryland and the Middle District of Pennsylvania filed libels against

the above-named products, the former at Baltimore, Md., and the latter at Harrisburg, Pa., alleging that the articles had been shipped in interstate commerce on or about September 5 and 16, 1942, by the Price Compound Co. from Minneapolis, Minn., and charging that they were misbranded. The products were contained in envelopes, 12 envelopes in each package. Each package also contained a booklet entitled "Mrs. Price's Complete directions for Canning Vegetables and Fruit, Pickling, etc."

The articles were alleged to be misbranded (1) in that certain statements in the labeling were misleading since when read in their entirety they represented and suggested and created in the mind of the reader the impression and belief that boric acid, which the labeling directed to be used in the canning of vegetables, fruits, and pickles, may be safely used, whereas such use would be potentially dangerous to the health of the consumer, and the labeling failed to reveal facts material with respect to the consequences which might result from the use of the article under the conditions of use prescribed in the labeling; (2) in that the statement "Heating has destroyed these germs in the contents of the can," appearing in the labeling was false and misleading since the instructions for canning throughout the labeling of the articles required no heating above the boiling point of water, and such heating is not sufficient to destroy all spoilage bacteria; (3) in that the statement, "In home canning only 212 degrees of heat can be produced," appearing in the labeling was false and misleading since pressure cookers are available to provide higher temperatures; (4) in that certain statements under the heading "A few facts about preservatives" in the labeling were misleading in that they failed to reveal the fact that statements therein accredited to Professor Long were made many years ago before knowledge of resistance to clostridium botulinus and the dangers from it in canning had been acquired; (5) in that the statements in the labeling, (Mrs. Price's Compound) "Notice to Purchasers. It is not claimed for this compound that it contains anything of food value, but it is an antiseptic preparation, and among its many uses may be employed to prevent canned fruits and vegetables from souring and spoiling. This package contains specially prepared and tested Sodium Chloride, Boric Acid," (Mrs. Price's Special Prepared Boric Acid) "Notice to Purchasers. It is not claimed that there is anything of food value in the contents of this package but it is an antiseptic preparation," were misleading since they failed to reveal the consequences which might result from the use of the articles under the conditions of use prescribed in the labeling, namely, that the processing recommended might fail to effect proper sterilization and thereby result in danger to health, and also that the amount of boric acid recommended to be added to various canned products was such as might render such products deleterious to health. The compound was alleged to be misbranded further in that the common or usual name of each ingredient of the article required by law to appear in the labeling was not placed prominently thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read by the ordinary individual under customary conditions of purchase and use, since the names of the ingredients of the article appeared in an inconspicuous position on the flap of the envelope.

The boric acid was also alleged to be misbranded under the provisions of the law applicable to drugs reported in notices of judgment on drugs and devices.

On October 26, 1942, and February 12, 1943, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

4490. Adulteration and misbranding of fruit beverage bases. U. S. v. 199 Bottles of Sunshine Health Drinks. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 7944. Sample Nos. 94243-E to 94248-E, incl.)

On July 25, 1942, the United States attorney for the Western District of Missouri filed a libel against 199 gallon-bottles of Sunshine Health Drinks at Jefferson City, Mo., alleging that the article had been shipped in interstate commerce on or about April 20 and May 6, 1942, by the Orange Products Corp. from Chicago, Ill.; and charging that it was adulterated and misbranded. The article was labeled in part: "Sunshine Health Drinks * * * Pineapple Orange [or 'Grape Juice,' 'Orange,' 'Pineapple,' 'Fruit Punch,' or 'Grapefruit'] Concentrate."

The pineapple orange, orange, and fruit punch flavors were alleged to be adulterated (1) in that inferiority had been concealed through the use of artificial color, added orange pulp, and phosphoric acid, and (2) in that artificial color